HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH: Hon'ble Shri S.R. Nayak, CJ

WRIT PETITION No. 208 OF 2006

PETITIONER Rambahadur Singh, Aged about 74 years, S/o. Late Chandreshwar Pratap Singh, R/o. Dhaurupur, District Surguja (CG)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through : Collector, Ambikapur, Surguja (C.G.)
2. Municipal Corporation, Ambikapur, Through : Commissioner, Ambikapur, Distt. Surguja.(C.G.)
3. The Chief Executive Officer, Municipal Corporation, Ambikapur, District Surguja (C.G)
4. Assistant Engineer, Municipal Corporation, Ambikapur, District Surguja (CG)
5. S.D.O. Ambikapur, District Surguja (CG)
6. Director, Town & Country Planning, Raipur, Distt. Raipur (CG)

Present:

Mr. Manoj Pranjpe, learned counsel for the petitioner.

Mr. Utkarsh Verma, learned Dy. G.A. for the State.

Mr. B.D. Guru, learned counsel for Municipal Corporation, Ambikapur.

ORAL ORDER
(Passed on 16th of January, 2006)

The petitioner being aggrieved by the notice dated 10.01.2006 issued by the Asst. Engineer, Municipal Corporation, Ambikapur, Dist. Surguja, 4th respondent herein, has filed this writ petitioner under Articles

226/227 of Constitution of India. By the impugned notice, the petitioner has been called upon to remove the unauthorized construction alleged to have been made by the petitioner in contravention of the provisions of Sections 322 and 323 of the Chhattisgarh Municipal Corporation Act, 1956 (for short 'the Act'). To the impugned notice, as could be seen from paragraph 5.6, the petitioner submitted his representation/reply marked as Annexure P/5 on 12.01.2006. It is stated that the 4th respondent is yet to consider the representation of the petitioner.

(2) Since the issue brought before the Court relates to domain of the facts, I think that the ends of justice would be met by directing the 4th respondent to consider the representation/reply of the petitioner (Annexure-P/5) in the first instance before taking any coercive step envisaged under the Act. However, it is made clear that if ultimately the order that may be made by the 4th respondent against the petitioner goes against him, he shall work out his legal remedies before the jurisdictional civil Court by instituting a suit.

(3) In the result, I dispose of this writ petition directing the 4th respondent and other respondents not to take any coercive steps to demolish alleged illegal construction said to have been made by the petitioner before the 4th respondent considers the representation of the petitioner dated 12.01.2006 and passes appropriate orders. There shall be no order as to costs.

Sd/-
The Chief Justice

Brajesh